



**High Desert Power Project, LLC**

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August 10, 2011

Clerk of the Board  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

ARB Board of Directors  
c/o Clerk of the Board  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

**Re: High Desert Power Project's Comments on the Air Resources Board's  
Proposed Modifications to California Cap on Greenhouse Gas Emissions and  
Market-Based Compliance Mechanisms Regulations**

Dear Executive Officer Goldstene:

This letter provides the comments of High Desert Power Project, LLC ("HDPP") to the Air Resources Board on the proposed modifications to the "Proposed California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulations" ("the Cap-and-Trade Rule") that were made available on July 25, 2011. HDPP appreciates the opportunity to comment on these proposed modifications to the Cap-and-Trade Rule, as well as the Air Resources Board's consideration of these comments.

HDPP owns and operates a new, modern, highly-efficient, natural gas fired, combined cycle powerplant (the "HDPP Plant"). It is located near Victorville, California and serves the California electricity market. It has a nominal capacity of 830 MW.

**HDPP Comment**

HDPP supports the proposed modification to delay the commencement of the initial compliance obligation from 2012 to 2013.

### **Reasons for HDPP Comment**

The proposed Cap-And-Trade program is an enormously complex new regulatory regime that will have substantial impact on HDPP. Assuming that the HDPP Plant operates at historical levels, the annual cost of allowances could range from approximately **\$16 - \$80 million** (at the floor or reserve prices in the proposed Cap-and-Trade Rule §§ 95911, 95913). Costs could be even higher if HDPP Plant dispatch increases in response to consumer demand for power in Southern California. Even assuming that HDPP will be able as a general matter to pass-through these costs, these costs were never anticipated when the plant was constructed and permitted in California; they will be material; and management of these costs will affect HDPP's working capital needs. This new financial obligation may necessitate implementation of allowance cost hedging strategies well in advance of the effective date of the compliance obligation, assuming they are even available at reasonable cost. Additionally, allowance costs will affect power prices and thereby affect the levels at which various power plants are dispatched, the locations of dispatched power generation and associated GHG and criteria pollutant emissions, the effect of power generation on local air quality, and many other environmental and economic factors that ARB should carefully consider before the program takes effect.

Dispatch levels in turn affect power plant maintenance requirements and schedules. Proper implementation of programs to manage these financial and operational changes to the HDPP business will require careful advance planning. While this implementation will be challenging even if there is adequate time to prepare, it would be infeasible if the time is too short -- a clear consequence of a January 1, 2012 compliance obligation start date. Indeed, such a start date would likely mean that final modifications to and adoption of the Cap-And-Trade Rule would occur after much of the HDPP 2012 budget and maintenance scheduling processes have been completed.

Additionally, as has been recognized, a delay of the compliance obligation to 2013 is needed to ensure that the Cap-And-Trade Rule is implemented properly without glitches that could adversely affect program participants, power markets, and the economy.

For these reasons, a delay of commencement of the compliance obligation to 2013 is required to permit the Cap-And-Trade Rule to comport with AB 32's mandate that any ARB regulations be designed "in a manner that minimizes costs and maximizes benefits for California's economy, improves and modernizes California's energy infrastructure and maintains electric system reliability, maximizes additional environmental and economic co-benefits for California, and complements the state's efforts to improve air quality." (Cal. Health & Safety Code, § 38501(h); see also §§ 38560, 38661(a), 38562(a), 38562(b)(1).

### **Conclusion**

HDPP appreciates the opportunity to provide comments to the Executive Officer and ARB staff on the proposed modifications to the Cap-and-Trade Rule, and supports the proposed delay of the commencement of the compliance obligation to 2013.

Sincerely,

A handwritten signature in black ink, appearing to read "Bradley K. Heisey", written in a cursive style.

Bradley K. Heisey  
Vice President